



**Montana Coalition for Safety and Justice
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To: Members of the Law and Justice Interim Committee.

On behalf of our members we submit the following comments on the follow proposed bill drafts that are being considered today and proposals for consideration at the next meeting of this committee.

LClj95 – Revise Parole Criteria

Parole hearings should look at the prisoner as they are now, based on their actions and the prisoners efforts to move towards rehabilitation and preparing for successful reentry into society. A parole hearing should not be based on the past but the present. The Court at time of sentencing heard from all parties and pronounced a sentence and conditions if the offender was released prior to the completion of the sentence. The Court could have imposed parole eligibility restrictions at the time of sentencing (MCA 46-18-202(2) 2013)

To deny parole based on the Boards determination that “not enough time has been served” is a second sentencing and reduces the effectiveness of rehabilitative programs provide by the Department of Corrections. Allowing this to continue undermines the risk assessment process and devalues treatment and positive actions taken towards rehabilitation.

We ask the committee to amend the Bill Draft Section 2(5) limiting the time between reviews of hearings to 2 years. This is in line with the goal of rehabilitation and recognizing positive efforts for self-improvement.

LClj96 – Prohibit BOPP from Assigning Conditions of Parole

The conditions of parole and probation should be set by the Court. The Court is advised by the Department at the time of sentencing on potential conditions that are recommended by the Department. The Department can seek a modification of the Court imposed conditions if necessary. To empower the Department to impose conditions at will only add to the confusion. MCA 46-18-801 makes the inclusion of department at Section 2(5) confusing and creates conflict in the statutes.

We ask the committee to amend the Bill Draft Section 2(5) by removing “or the Department”

LClj97 – Require Parole Hearings to be Recorded

In order to have the public's trust all government functions to include the Board of Pardons and Parole must be transparent and reviewable. When a Government can use an overly broad interpretation of statutes and regulations to hide from public view information without explanation that is being used to make determinations affecting individuals that trust evaporates. This is particularly true in the case of the Board of Pardons and Parole.

We ask the committee to amend the Bill Draft, by inserting a subsection that requires any information that is withheld be described and detail the reason(s) that such information would compromise safety or security and make such determinations subject to judicial review.

LClj98 –Revise MAPA Provisions Related to BOPP

This Bill is long overdue and is a breath of fresh air; some of the rules promulgated by the Board of Pardons and Parole are nonsensical and have no relation to rehabilitation.

20.25.702(f) The offender must obtain permission from his/her supervising officer before engaging in a business, purchasing real or personal property, or purchasing an automobile, or incurring a debt.

Personal property is defined in MCA 70-10108 (2013) as "Every kind of property that is not real is personal. The Board has effectively criminalized buying food and clothing as these are personal property. Turning on the lights, fixing a meal, taking your child to the doctor create a debt. The simple act of going to the store and buying food and then cooking dinner, results in two violations.

We ask the committee to approve the bill draft as proposed

LClj99- Revise MAPA Provisions Related to BOPP

This Bill does not clear the air or provide the needed transparency to insure that the BOPP is acting within the proper boundaries when exercising unfettered power without any review or appeal.

We ask the committee to table the draft in favor of bill draft LClj98

Proposals for Your Next Meeting

To enhance the rehabilitative process and create a clear and defined path for successful reentry we ask the Committee consider the following:

1. Provide for a Certificate of Rehabilitation

HB518 (2013 Session) provided a path to full employment and positive re-entry by providing recognition of the hard work and continued good citizenship of an offender. Rehabilitation certificates provide positive reinforcement of rehabilitative efforts and create an environment where offenders can provide for their families removing the burden of continual public support for their families.

HB518 also provides protection from negligence actions aimed at businesses and landlords who offer 2nd chances to offenders in housing and employment.

2. Good Citizenship Credits

As contemplated in LC1765 (2013) creates incentives for parolees and probationers to comply with conditions by allowing them to earn “good time” while under supervision. This gives positive reward for building good citizenship habits and behaviors while arming supervising Parole and Probation officers with a clear sanction that does not create a statewide burden of increased Corrections and Family Support program costs.

3. Elimination of Incarceration for Non –Criminal Acts

Incarcerating offenders based on non-criminal acts or technical violations is costly and eliminates the savings promised by a robust community corrections program. It creates economic loss to the community by lost rents, lost productivity due to absent suddenly employees, family economic crisis due to a wage earner removed from the family, increased chances for generational incarceration and anti-social behavior. It also creates an environment of hopelessness that damages rehabilitation efforts. Based on current reported non-technical violations resulting in incarceration the effect of such a reform could result in a top end savings of \$43,000,000 per year